PUBLIC PROSECUTION SERVICE

Annual Accountability Report for the Fiscal Year 2004-2005

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Accountability Statement

The accountability report of the Nova Scotia Public Prosecution Service for the year ended March 31, 2005 is prepared pursuant to the Provincial Financial Act and government policy and guidelines. These authorities require the reporting of outcomes against the Public Prosecution Service's business plan information for the fiscal year 2004-05. The reporting of Public Prosecution Service outcomes necessarily includes estimates, judgments and opinions by the Public Prosecution Service.

This report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Public Prosecution Service business plan for the year.

In terms of accountability, it should be noted that the Nova Scotia Public Prosecution Service was established in 1990 as the first statutorily-based independent prosecution service in Canada.

All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions. Crown Attorneys responsible to the Director conduct prosecutions independently of the Minister. The only limitation on the operational independence of the Director permitted by the Public Prosecutions Act arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

Martin E. Herschorn, Q.C.
Director of Public Prosecutions

Date

Message from the Director of Public Prosecutions

I am pleased to present this accountability report of the Nova Scotia Public Prosecution Service for 2004-2005.

The Service has had a busy year. Our 86 Crown Attorneys across the province dealt with 41,711 criminal charges and prosecuted 4,565 provincial statute violations.

A management restructure in the Halifax Region was completed. There is now one Chief Crown Attorney for Halifax Region and Special Prosecutions and two Regional (Administrative) Crown Attorneys for the Halifax Region.

The Prosecution Information Composite System (PICS) – a comprehensive computerized offender history information system – is now in full application Service-wide with all personnel trained in its use. PICS has eliminated the deficiencies of manual information management and is an excellent tool for the delivery of efficient and effective prosecutorial services. With the allocation of further resources, PICS can be the basis for a case management system which the PPS wishes to implement.

Meanwhile, work continues on the development of a parallel information system to provide management with statistical information to better assess workload and distribution of workload.

The PPS continues to make progress in the identification and refinement of service delivery "best practices" both for its Crown Attorneys and for its support staff.

The PPS also continues its focus on staff training and professional development. Dozens of Crown Attorneys and support staff took advantage of the courses, workshops and conferences available. Of particular note is the training and support provided to all Crown Attorneys on the province's family violence initiative and other recently introduced initiatives in the criminal justice system such as the sex offender registry.

The PPS continues to do an important job for Nova Scotians as it fulfills its role in the criminal justice system and continues to refine and improve its practices.

Martin E. Herschorn, Q.C.
Director of Public Prosecutions

Introduction

The Public Prosecution Service prosecutes offences with fairness and equal treatment of all persons making decisions based solely on fact, legal analysis and the defined policies of the Service. The Service performs a function absolutely critical to public sə'fety in Nova Scotia.

This accountability report is based on the goals, priorities and outcomes set out in the Public Prosecution Service's business plan for 2004-2005, which should be read in conjunction with this report.

This report explains the work undertaken by the Public Prosecution Service last year on behalf of all Nova Scotians. It should help to inform and educate its readers as to the role and function of the Service and its Crown Attorneys.

Mission

The mission of the Public Prosecution Service of Nova Scotia is to seek justice and serve the public interest by performing prosecution duties with fairness, professionalism and integrity.

Goals

In accomplishing its mission, the Public Prosecution Service contributes to the Government's priority of fulfilling its social responsibility of providing for public safety.

In order to accomplish its mission, the Public Prosecution Service has set the following goals:

1. Providing a Public Prosecution Service that reflects excellence, dedication to public service, and high ethical standards;

2. Providing a Public Prosecution Service that identifies and manages the resources required to carry out its mission;

3. Providing a Public Prosecution Service that reflects the application of best business practices consistent with providing a high quality service;

4. Providing within the Public Prosecution Service, an environment that allows for the independent exercise of prosecutorial discretion;

5. Providing a Public Prosecution Service that is reflective of the community it serves.

Core Business Areas

- Represent the Crown in the conduct of criminal matters and quasi-criminal matters before all levels of court.

- Represent the Crown in the conduct of criminal and quasi-criminal appeals before all levels of courts.

- Provide legal advice and assistance to the police and provincial law enforcement officers at their request.

- Participate in the development of criminal law policy and criminal prosecutions policy.

Priorities & Accomplishments for 2004-2005

In Relation to the Service's Business Functions:

The priorities for the first three core business areas of the Service overlap significantly and thus are presented as a group.

- **Represent the Crown in the conduct of criminal and quasi-criminal matters before all levels of courts.**

- **Represent the Crown in the conduct of criminal appeals and quasi-criminal appeals before all levels of courts.**

- **Provide legal advice and assistance to the police and provincial law enforcement officers at their request.**

Court Activity

This year 86 Crown Attorneys in 18 offices across the province dealt with 41,711 criminal charges and 4,565 NS statute matters in both Provincial Court and the Supreme Court of Nova Scotia. (See Appendix A & B)

During 2004-2005, 47 appeals and 112 chambers motions were handled by the PPS in the Nova Scotia Court of Appeal. (See Appendix C)

Education and Training

Continuing education for Crown Attorneys as well as support staff remained a priority in order to enhance the level of expertise within the PPS and the resulting quality of prosecution services. More than $43,500 was spent on education and training during the fiscal year. Specifically, the PPS:

- funded the attendance of 52 Crown Attorneys at the Federation of Law Societies National Criminal Law Program in Halifax;

- funded the Crown Attorney Annual Conference and the Public Prosecution Service Support Staff Annual Seminar held this year at Western Shore, Nova Scotia;

- funded the participation of six Crown Attorneys at the Ontario Crown Attorneys' summer school program, a valuable professional development opportunity made available to the PPS through the kind cooperation of the Ontario Ministry of the Attorney General;

- funded a two day program on cross-examination skills for 25 Crown Attorneys;
- largely completed training in the province's Family Violence Initiative with the remaining Crown Attorneys to receive training in the next fiscal year;
- continued additional training as required on new PPS policies;
- supported the requirements of the Education Development Committee to insure that PPS staff received required training.

Youth Criminal Justice Act
The PPS participated in the development of a Nova Scotia proposal to the federal government to implement improvements in the legislation. The PPS has also initiated a redraft of specific operational protocols as they relate to the YCJA.

Information Technology
Staff training was completed on the Prosecution Information Composite System (PICS) – a comprehensive computerized offender history information system. PICS eliminates the deficiencies of the manual information management and greatly aids in the delivery of efficient and effective prosecutorial services.

Meanwhile, work continued on the development of a parallel information system to provide management with statistical information to better assess workload and distribution of workload.

The development of a case management system within the PPS continues to make progress as does identification and refinement of service delivery "best practices."

Communications
The PPS also continued implementation of its communications strategy.

The PPS continued its comprehensive program of media training Crown Attorneys. Crown Attorneys have daily contact with the media and follow PPS policy to use the media as a conduit to the public to ensure that prosecutorial procedure and decisions are explained.

The newsletter, *On the Docket,* continued publication and distribution.

Once again, the PPS had a successful meeting with representatives of Mothers Against Drunk Driving (MADD) to share perspective about the issue of impaired driving.

Results of the Employee Wellness and Recognition Survey were provided to management and a PPS employee recognition and wellness program is in development.

Pre-Charge Advice
An important element of the Crown Attorney's ongoing responsibilities is to provide pre-charge advice to police and provincial law enforcement officers upon their request. The PPS continues to allocate sufficient resources to the delivery of quality pre-charge legal opinion. Further, a service-wide system to capture the extent and frequency of advice is in development.

- **Participate in the development of the criminal law and criminal prosecutions policy.**

Progress was made in the PPS strategic planning process. Development will continue.

The PPS continued contribution to the development of criminal law policies and procedures through participation in meetings with: Federal/Provincial/Territorial Ministers and Deputy Ministers responsible for Justice; CCSO (Coordinating Committee of Senior Justice Officials) and Federal/Provincial/Territorial Heads of Prosecutions; and Provincial Deputy Ministers.

A PPS Crown Attorney attended the Uniform Law Conference of Canada as Nova Scotia's representative to provide input on criminal law revisions/amendments.

The PPS also participated in provincial government policy initiatives; the standardization of documents used in courts; restorative justice; and training with regard to the domestic violence.

Outcome Measures

OUTCOME	INDICATOR	MEASURE	BASE YEAR MEASURE	TARGET 2005-06	STRATEGIES	RESULTS
High quality trial work	Majority of Crown Attorneys attain competent or higher designation	Performance evaluation of Crown Attorneys	100%	Maintain majority attainment	• in-court monitoring • develop tool to assist in court monitoring • provide continuing education to all Crowns & support staff • implement a file management information system	Largely achieved
High quality appeal work	Majority of Crown Attorneys attain competent or higher designation	Performance evaluation of Crown Attorneys	100%	Maintain majority attainment	• in-court monitoring • develop tool to assist in court monitoring • provide continuing education to all Crowns & support staff • implement a file management information system	Largely achieved
Provide high quality legal advice and assistance	Consistent high quality	Supervisory assessment of legal advice (to be developed)	(to be determined)	Maintain consistent high quality	• develop method to record advice and assistance	Strategies in progress

Provide Crown representation in the development of criminal law and criminal prosecutions policy	Provide representation on committees as requested	Number of Crowns who participate	50 Crown Attorneys	Maintain representation	• contribute to the development of the criminal law policies and procedures in conjunction with federal and provincial Departments of Justice and liaise with law enforcement agencies, government, the judiciary and professional associations on policy and procedural matters	Achieved

FINANCIAL

CORE BUSINESS AREAS	2004-05 Budget	2004-05 Actual
Represent the Crown in the conduct of criminal and quasi-criminal matters before all levels of court.	$13,580.1	$13,184.4
Represent the Crown in the conduct of criminal appeals before all levels of courts.	919.9	849.5
Provide legal advice and assistance to the police and provincial law enforcement officers at their request.	Included	Included
Participate in the development of criminal law and criminal prosecutions policy.	Included	Included
TOTAL	$14,500.0	$14,033.9
Salaries and Benefits	$11,354.3	$10,621.2
Funded Staff (FTEs)	145.0	142.6

APPENDICES

All statistics with the exception of appeals received
through the kind co-operation of the Department of Justice.

Criminal Code Charges in Provincial Court
by Offence Category and Judicial Centre 2004-05

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	NEW GLASGOW
Homicide & Related	6	4	0	0	0	0
Attempted Murder	6	9	1	4	0	4
Robbery	209	57	3	17	9	4
Sexual Assault	44	40	9	28	25	10
Sexual Abuse	17	21	7	13	15	3
Kidnaping	38	24	11	8	9	4
Abduction	2	0	0	0	0	0
Break & Enter	265	135	59	128	85	55
Weapons	398	237	29	85	45	20
Fraud	6,912	120	55	147	204	60
Major Assault	465	307	43	85	69	67
Simple Assault	886	652	162	249	179	156
Theft	1,087	505	120	271	109	130
Stolen Property	984	466	54	152	84	29
Arson	5	3	2	0	3	0
PD - Mischief	346	203	87	102	77	76
Morals - Sex	119	30	3	8	4	2
Morals - Gambling	0	0	0	0	1	0
Public Order	33	20	23	34	17	13
CC Traffic	144	101	19	58	42	26
Admin Justice	2,568	1,464	414	712	373	493
Impaired Driving	564	595	163	291	257	258
Other CC	762	486	103	176	114	156
Unknown	5	0	0	0	0	1
TOTAL	15,865	5,479	1,367	2,568	1,721	1,567

Continued . . .

Continued . . .

Criminal Code Charges in Provincial Court by Offence Category and Judicial Centre 2004-05

OFFENCE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	Total
Homicide & Related	2	1	0	2	3	0	18
Attempted Murder	4	4	0	0	2	0	34
Robbery	20	20	1	1	11	4	356
Sexual Assault	41	24	4	16	6	11	258
Sexual Abuse	17	18	0	4	8	6	129
Kidnaping	17	11	1	0	6	3	132
Abduction	0	0	0	0	0	0	2
Break & Enter	189	108	19	68	91	40	1,242
Weapons	139	90	12	33	57	85	1,230
Fraud	128	101	48	32	42	30	7,879
Major Assault	218	85	25	53	72	24	1,513
Simple Assault	616	257	67	138	163	166	3,691
Theft	401	247	53	62	115	47	3,147
Stolen Property	162	228	26	13	64	24	2,286
Arson	4	4	0	1	3	0	25
PD - Mischief	258	121	36	62	71	60	1,499
Morals - Sex	10	1	0	6	5	2	190
Morals - Gambling	0	0	0	0	0	0	1
Public Order	30	27	3	48	62	11	321
CC Traffic	58	45	36	19	45	28	621
Admin Justice	2,161	789	241	326	628	306	10,475
Impaired Driving	403	308	176	203	235	170	3,623
Other CC	692	170	39	87	158	89	3,032
Unknown	0	0	0	1	0	0	7
TOTAL	5,570	2,659	787	1,175	1,847	1,106	41,711

Provincial Statute Cases by Judicial Centre 2004-05

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	OTHER PROVINCIAL STATUTES	TOTAL
Halifax	841	86	162	1,089
Dartmouth	283	5	59	347
Amherst	132	55	63	250
Kentville	427	91	114	632
Bridgewater	318	40	47	405
New Glasgow	185	58	41	284
Sydney	271	49	64	384
Truro	225	20	42	287
Antigonish	115	38	36	189
Port Hawkesbury	93	16	28	137
Yarmouth	167	45	121	333
Digby	172	28	28	228
Total	3,229	531	805	4,565

APPENDIX C
Appeals Branch Statistics

The following are statistics related to the operations of the Appeals Branch covering the period April 1, 2004 to March 31, 2005.

The Branch participated in 47 appeals heard by the Court of Appeal.
Of this number:

- 10 were initiated by the Crown
- 37 were initiated by the offender
- 1 involved a young offender

Of the 10 appeals initiated by the Crown:

- 4 dealt with acquittals
- 4 dealt with sentence
- 2 dealt with the refusal of DNA orders

Of the 37 appeals initiated by offenders:

- 18 dealt with conviction only
- 6 dealt with sentence only
- 12 dealt with conviction and sentence
- 1 dealt with a DNA order

The Appeals Branch also participated in 11 appeals which were abandoned, quashed or dismissed without a full hearing in the Court of Appeal.
Of these:

- 3 were initiated by the Crown
- 11 were initiated by offenders.

The Appeals Branch also participated in 112 Chambers motions – applications heard by a single judge of the Court of Appeal. Chambers motions include applications for hearing dates, adjournments, bail pending appeal, extensions of time for appeal, directions in appeals, and striking appeals from the Court's docket. The Appeals Branch dealt with nine notices of application for leave to appeal to the Supreme Court of Canada – three initiated by the Crown and six by offenders. The Appeals Branch filed one notice of intervention in a Supreme Court of Canada appeal. Decisions were received from the Supreme Court in six leave applications, two initiated by the Crown and four by the defence.

Counsel in the Appeals Branch continued to be involved in *R. v. Marshall and Julian et al* (the native logging case). The accused, all aboriginals in Nova Scotia, were convicted at trial in Provincial Court on charges of illegally cutting timber on Crown lands. The defendants had claimed aboriginal title to the land and treaty rights to cut and collect timber. A summary conviction appeal to a judge of the Supreme Court of Nova Scotia was dismissed in 2002 and a further appeal to the Nova Scotia Court of Appeal was argued in March, 2003. In the autumn of 2003, the Court of Appeal handed down its decision in which the Court allowed the appeal by the defendants and ordered a new trial. The Crown was granted leave to appeal by the Supreme Court of Canada. Arguments were heard in January, 2005.

Counsel in the Appeals Branch were also involved in three major cases pending in the Court of Appeal including two murders (*R. v. Assoun* and *R. v. Smith and James)* and one fraud *(R. v. Black)*.